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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,286	04/29/2005	Atsuo Okaichi	050222	6018

23850 7590 06/14/2007  
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP  
1725 K STREET, NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER
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TRIEU, THERESA

ART UNIT	PAPER NUMBER
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3748

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/533,286

Applicant(s)

OKAICHI ET AL.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-21 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-13 and 15-21 is/are allowed.
- 6) ☒ Claim(s) 23-28 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>March 21, 2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office Action is responsive to the applicants' amendment filed on March 21, 2007.

Claims 1, 2, 4, 9, 12, 15, 18 and 19-22 have been amended. Claim 3 has been canceled. Claims 23-28 have been added. Accordingly, claims 1, 2, 4-21 and 23-28 are pending in this application.

#### ***Drawings***

1. The drawings were received on March 21, 2007. These drawings are acceptable.

#### ***Claim Objections***

2. Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation in claim 14 has been disclosed in claim 1 as a central portion of the porous member is thicker/higher density than an outer periphery of the porous member.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Ozu et al. (Ozu) (Patent Number 5,782,622) or Arai et al. (Arai) (Publication Number JP 56-165788) or Hashimoto (Publication Number JP 01-253386).

Regarding claims 23-28, Ozu (as shown in Figs. 1-8) or Arai (as shown in Figs. 4-6) or Hashimoto discloses a compressor comprising a compression mechanism (40 in Ozu; 3, 4 in Arai; 5, 7, 12 in Hashimoto) for compressing working fluid, a rotational motor including a stator (31 in Ozu; 12 in Arai; 2 in Hashimoto), a rotor (32 in Ozu; 11 in Arai; 2 in Hashimoto) for driving the compression mechanism and a container (20 in Ozu; 30 in Arai; 1 in Hashimoto) for accommodating the compression mechanism and the rotational motor, in which the compressed working fluid flows from the compression mechanism to the rotational motor, the container includes a discharge pipe (not numbered; however, clearly seen in Fig. 1 in Ozu; 40 in Arai; 17 in Hashimoto) on the opposite side of the compression mechanism with respect to the rotational motor, and the compressed working fluid flows from the rotational motor to the discharge pipe, wherein a space between the compression mechanism/discharge pipe and the rotational motor is defined by a porous member (50, 50A, 50B – see col. 6, line 32-38 in Ozu; 39 in Arai; 21 in Hashimoto); porous member is made of porous plate; the porous plate comprising a plurality of porous plates laminated on one another (50, 50A, 50B in Ozu; 39 in Arai); the porous plate (50, 50A, 50B in Ozu; 39 in Arai) having holes, and a diameter of a hole closer to a central portion of

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the porous plate is smaller than that of a hole closer to an outer periphery of the porous plate. However, Ozu or Arai or Hasimoto fails to disclose the porous plate selected from the group consisting of: honeycomb and punching metal, metal them wire, glass wool and ceramic wool.

It is examiner's position that one having ordinary skill in the compressor art, would have found it obvious to utilize the material of the porous plate, since they are merely design parameters, depending on being used for a particular purpose or solving a stated problem. Moreover, there is nothing in the record which establishes that the claimed the porous plate being selected from the group consisting of: honeycomb and punching metal, metal them wire, glass wool and ceramic wool, under such conditions, presents a novel of unexpected result (See *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)). Also, the applicant should note that the selection of a know material based upon its suitability for the intended use is a design choice consideration within the skill of the art. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

#### ***Allowable Subject Matter***

4. Claims 1, 2, 4-13 and 15-21 are allowed.

#### ***Prior Art***

The IDS (PTO-1449) filed on March 21, 2007 has been considered. An initialized copy is attached hereto.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 23-28 have been considered but are moot in view of the new ground(s) of rejection.

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- In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the discharge pipe is a pipe from which gas is discharge from the container into the refrigeration cycle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

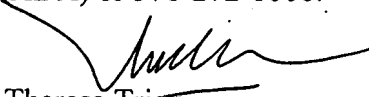
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT  
June 8, 2007



Theresa Trieu  
Primary Examiner  
Art Unit 3748